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RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Letter dated 15 February 1995 from the Ambassador of the Federal Republic of Yugoslavia to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights

I have the honour to transmit to you, enclosed herewith, the Aide Memoire by the Government of the Federal Republic of Yugoslavia entitled "The Albanian Minority in the Federal Republic of Yugoslavia" and to request you kindly to circulate this letter and its enclosure as an official document of the fifty-first session of the Commission on Human Rights, under items 20 and 12.

(Signed) Vladimir Pavicevic

GE.95-11371

AIDE MEMOIRE

The Albanian Minority in the Federal Republic of Yugoslavia

The Government of the Federal Republic of Yugoslavia has underlined on several occasions that the so-called problem of the Albanian minority in Serbia is a problem of separatism par excellence. The possible forms and cases of threats or restrictions on human rights and freedoms imposed upon the members of this minority are an absolute consequence of their separatism. The refusal of the Albanian minority to be loyal to the state where they live, in compliance with the internationally accepted principles on the rights of national minorities, has resulted in the state's use of its legitimate right to control the holders of separatism and their helpers in every possible way. Hence, we resolutely dismiss any insinuations about preempted discrimination against the members of the Albanian or any other minority in the Federal Republic of Yugoslavia, particularly the allegation that the problem stems from the Constitution or any positive law of the country. Any such hint or allegation is a proof either of ignorance of the facts or of politically biased motives.

Hence, the states that do not want to see that behind the so-called discontent with the enjoyment of human rights and freedoms there is a hidden scenario which has been prepared for years, aiming at the secession of Kosovo and Metohija, at the same time are closing their eyes in front of the fact that not only the existence of the national minorities in the FRY is being recognised, but also that the minority rights are guaranteed under the Constitution of the FRY and the relevant regulations, in compliance with the highest international standards in this domain. The problems of Kosovo and Metohija do not stem from non-recognition of minority rights or their non-implementation in practice, but rather from the refusal of a segment of the Albanian minority to recognize the state in which they live. This can be illustrated by the fact that the separatist leaders, in their struggle against the territorial integrity and sovereignty of Yugoslavia, have launched an illegal referendum for the secession of Kosovo and Metohija from Yugoslavia, that they have adopted a constitution of the so-called republic of Kosovo, while making use of terrorism, arms and drugs trafficking, and of other illegal activities.

The members of the Albanian minority in Kosovo and Metohija, under pressure exerted by the separatists, have been persistently opposing to exercise their basic democratic rights they are entitled to in the FRY, i.e. to take part in the republican parliamentary, provincial and communal elections. By their boycotting every election held to date in Serbia and the FRY, they have been denying themselves the right to participate in the democratic decision-making process on the republican level, as well as the possibility to set up local self-government on the level of the Province.

Such an attitude testifies to their separatist aspirations, and it represents the example of extreme abuse of minority rights in Europe. It is a unique instance of a national minority refusing to enjoy the privileges of territorial and cultural autonomy guaranteed to it under the Constitution.

The separatism of the Albanian minority in Yugoslavia is not a novelty, it had been instigated in particular by the communist Albania under Enver Hoxha. It culminated in the period of dissolution of communism in East European countries and in the course of the preparations aimed at the breakup of the former Yugoslavia. At that time, the secessionist republics of the SFR of Yugoslavia were not only the inspiration for the erroneous belief of the Albanian minority that it was also entitled to secession, but they blatantly abused this false hope for their own political purposes. As for the ideologists

of the Albanian separatism, they have launched a new concept whereby, since the Albanian minority in Yugoslavia has been growing to such an extent that it has, according to them, reached or even exceeded in numbers some nations of the former Yugoslavia (Macedonians, Slovenians), this very fact could serve for changing its constitutional status and proclaiming itself a nation. Accordingly, all international legal obstacles were supposed to be eliminated and the realization of their plan for secession from Yugoslavia and unification with the Republic of Albania, accomplished.

However, the rights of the members of national minorities are not founded on their numbers, but on the Constitution as a basic law of the country, and on the international law.

Resolution of the 50th session of the Commission on Human Rights

The resolution on the situation of human rights in Kosovo and Metohija, adopted for the first time at the 50th Session of the Commission on Human Rights last year, it is true, contains no blunders in terms of promoting the Albanian minority in Kosovo and Metohija into a nation, nor does it advocate their separatism. However, in view of its very interference in the internal affairs of the FRY, and of unwarranted accusations at the expense of the situation of human rights in the FRY, it is in fact an instrument of the Albanian separatism and of the forces that hope to realize their direct or indirect objectives and interests by extending or further complicating the crisis in the territory of the former Yugoslavia, first of all in the Federal Republic of Yugoslavia.

The allegations contained in this resolution are a typical case of mistaken theses. For example, as for the allegations that discrimination has been conducted against the Albanian students and teachers, the facts prove the opposite. At the same time, it is an absurdity which probably no sponsor of this resolution could even think of if his own country were in question: the Albanian students and teachers have arbitrarily rejected the curricula for elementary and secondary education approved by the competent Ministry of Education for the whole territory of the Republic of Serbia, which is regular practice in the countries world-wide. Instead, they have introduced certain instruction based on their own curricula, criteria and text-books, with issuing some internal diplomas which should serve their students to proceed further to higher grades.

Since the sponsors of the resolution were motivated to stress that human rights have been violated in Kosovo and Metohija, the claim contained in that resolution about massive migration of the Albanians from Kosovo and Metohija (to developed European countries), is aimed at alluding that the cause for this migration is discrimination against the Albanian minority. However, no discrimination whatsoever is in question in this case. Emigration from the FRY is a problem that affects the entire population of the FRY and it has nothing to do with the ethnic factor. It has much to do, however, with the prevailing unfavourable economic, social and other living conditions, which have been additionally and severely exacerbated by the sanctions imposed against the FRY.

The migration of the Albanian minority is neither a problem of a political nature. It is well-known that many Albanians from the FRY have not been granted political asylum in developed European countries including some of the states sponsoring this resolution*. A number of these countries recently also decided on their massive return back to the FRY. That is to say either that such countries, according to the judgement of the sponsors, are violating the Convention on the Status of Refugees by turning them back to the state where their life is in jeopardy, or that (Art. 33.1) there is no case of violation of human rights at all, which is contrary to the allegations contained in the resolution.

The claims that the conditions in Kosovo and Metohija are further exacerbating are an absurd and hollow cliche.

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* Doc. E/1994/24, E/CN.4/1994/132, pp. 391, 393

The allegations about torturing, inhuman treatment of detainees, the judiciary discrimination etc., do not have any commendable backing in reality, nor is there any such backing in the relevant facts-founded documents of the Commission. At any rate, the proportions of such phenomena only slightly deviate from similar developments in other countries, their monitoring being a regular activity of the Commission on Human Rights, and the findings based on such monitoring do not furnish valid reasons for adopting a separate resolution.

The demand that Yugoslavia cooperate with the OESC, contained in the resolution, is also an example of mistaken theses, since Yugoslavia is desirous to cooperate but, against its will, its membership in the Organization has been suspended.

The 51st Session of the Commission on Human Rights

The above-mentioned facts are only some of the many proofs of the extent to which the adoption of the resolution at the 50th session of the Commission on Human Rights was unfounded and dictated by various political interests. Hence, there was not, nor is there any ground at present for adopting a similar resolution on Kosovo and Metohija at the 51st Session. Even more so since, in spite of the lies launched against the Federal Republic of Yugoslavia and the Serbs as a nation, the FRY has made additional efforts for the establishment of peace in the territory of the former Yugoslavia. Some prominent international factors and states have publicly given credit to Yugoslavia for such efforts.

The very protagonists from among the developed countries who gave their support to violent secession of some of the former Yugoslav republics several years ago, admit at present, one by one, that approving the latters' secession from the SFRY, the way it was effected, was premature and inappropriate, and that they have their share of responsibility for the consequences it entailed. Accordingly, it is evident to what extent blaming and sacrificing the Federal Republic of Yugoslavia, or rather, the peoples of the whole of Yugoslavia, has been unsubstantiated, and in particular, to what extent the adoption of a separate resolution on the situation of human rights in Kosovo and Metohija has been unfounded.

Inventions, over-exaggerations and mistaken theses contained in the resolution adopted by the Commission in 1994, are manifest examples of abuse of human rights for political purposes, and of open support for the Albanian minority separatism in the FRY. Consequently, the resolution embodies a violation of international law, and of the provisions of the OESC.

At the same time, other member-states of the Commission should not identify themselves with separatism, nor do they have the right to approve separatism and various types of abuses of minority rights exercised in the Federal Republic of Yugoslavia under pretence of fighting for the protection of human rights. Being a member of the Commission on Human Rights testifies not only of a favourable position a particular state enjoys in the field of human rights but, also, enforces responsibility of objective examination of all the facts available relevant to the respect or violation of human rights and other issues raised before the Commission. This also includes the responsibility not to permit the abuse of human rights for political purposes.

Yugoslavia has on many occasions so far made efforts to present those concerned ample data on the Albanian minority in Serbia, either through its national reports on the implementation of the provisions of the international instruments it has acceded to, or in its replies to special rapporteurs of the Commission on Human Rights, in its statements, etc. Ever since it has been undemocratically and unjustifiably stripped of its rights in the organs and bodies of the United Nations, the Federal Republic of Yugoslavia has been presenting these data by submitting documents and requesting that these be published as official documents for major sessions of various United

Nations bodies. Such documents, including those relevant to the status of the Albanian minority in the Federal Republic of Yugoslavia, shall be available at the 51st session of the Commission on Human Rights. The UN documents or the UN codes under which they have been published to date, primarily those within Items 12 and 20, shall be at the disposal for the 51st session of the Commission on Human Rights. In particular, note the comments by the Government of the Federal Republic of Yugoslavia on the reports by Mr. T. Mazowiecki.

There is nothing the Federal Republic of Yugoslavia wants to hide from the eyes of the world concerning the situation in Kosovo and Metohija. The figures issued by the Republican Ministry for Information whereby a total of 544 permanently accredited or other journalists, reporters and photographers from 26 countries visited Kosovo and Metohija in the last two years is evident proof to that effect. During the same period, 123 delegations, parliamentary and other missions or diplomatic/consular representatives stationed in the Federal Republic of Yugoslavia went on a visit to Kosovo and Metohija. Before the expiry of the Memorandum on Understanding, in 1993, the CSCE Mission held talks in Kosovo and Metohija 35 times.

The facts which additionally substantiate the above shall be submitted subsequently.

Belgrade, February 1995